

EXHIBIT 7

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
CIVIL ACTION NO. 1:23-cv-00595-JPH-KMB
K.C., et al.)
)
Plaintiffs,)
)
-vs-)
)
THE INDIVIDUAL MEMBERS OF THE)
MEDICAL LICENSING BOARD OF)
INDIANA, in their official)
capacities, et al.,)
)
Defendants.)

REMOTE DEPOSITION OF JANINE M. FOGEL, MD

The deposition upon oral examination of JANINE M. FOGEL, MD, a witness produced and sworn before me, Colleen Brady, Notary Public in and for the County of Monroe, State of Indiana, taken on behalf of the Defendants, with the witness located in Indiana, on the 17th day of May 2023, at 12:39 p.m., pursuant to the Federal Rules of Civil Procedure with written notice as to time and place thereof.

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 (All appearances via videoconference)</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Kenneth J. Falk</p> <p>5 ACLU of Indiana</p> <p>6 1031 East Washington Street</p> <p>7 Indianapolis, IN 46202</p> <p>8 317 635 4059</p> <p>9 kfalk@aclu-in.org</p> <p>10</p> <p>11 FOR THE DEFENDANTS:</p> <p>12 Thomas M. Fisher</p> <p>13 Office of the Attorney General</p> <p>14 302 West Washington Street</p> <p>15 IGCS 5th Floor</p> <p>16 Indianapolis, IN 46204</p> <p>17 317 232 6255</p> <p>18 tom.fisher@atg.in.gov</p> <p>19 FOR THE DEPONENT:</p> <p>20 Kimberly C. Metzger</p> <p>21 MCCARTER & ENGLISH, LLP</p> <p>22 880 West Monon Green Boulevard</p> <p>23 Suite 101</p> <p>24 Carmel, IN 46032</p> <p>25 317 363 3232</p> <p>kmetzger@mccarter.com</p> <p>ALSO PRESENT:</p> <p>Zef Cota, concierge tech</p> <p>Julie Conrad, general counsel for Eskenazi</p> <p>Harper Seldin, counsel for plaintiff</p> <p>Melinda Holmes, counsel for defendant</p> <p>Gavin Rose, counsel for plaintiff</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX OF EXHIBITS</p> <p>2 Page</p> <p>3 Deposition Exhibit No :</p> <p>4 Exhibit 1 - Complaint 6</p> <p>5 Exhibit 2 - Senate Enrolled Act No 480 9</p> <p>6 Exhibit 3 - Document subpoena 11</p> <p>7 Exhibit 4 - Document subpoena attachment 12</p> <p>8 Exhibit 5 - Amended deposition subpoena 15</p> <p>9 Exhibit 6 - Amended deposition subpoena 15</p> <p>10 30(b)(6) attachment</p> <p>11 Exhibit 7 - Eskenazi Health's amended 16</p> <p>12 response</p> <p>13 Exhibit 8 - Gender Health Program brochure, 18</p> <p>14 Eskenazi_000001 and 2</p> <p>15 Exhibit 9 - Gender Health Program Plan of 19</p> <p>16 care, Eskenazi_000087 through</p> <p>17 91</p> <p>18 Exhibit 10 - Informed consent document, 21</p> <p>19 Eskenazi_000003 through 16</p> <p>20 Exhibit 11 - WPATH Standards of Care, 24</p> <p>21 Eskenazi_000017 through 49</p> <p>22 Exhibit 12 - Endocrine Society treatment 25</p> <p>23 clinical practice guideline,</p> <p>24 Eskenazi_000052 through 86</p> <p>25 Exhibit 13 - Support Groups document, 28</p> <p>Eskenazi_000050 and 51</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX OF EXAMINATION</p> <p>2 Page</p> <p>3 DIRECT EXAMINATION 5</p> <p>4 Questions by Thomas M. Fisher</p> <p>5 CROSS-EXAMINATION 44</p> <p>6 Questions by Kenneth J. Falk</p>	<p style="text-align: right;">Page 5</p> <p>1 (Time noted: 12:39 p.m.)</p> <p>2 JANINE M. FOGEL, MD,</p> <p>3 having been duly sworn to tell the truth, the whole</p> <p>4 truth, and nothing but the truth relating to said</p> <p>5 matter, was examined and testified as follows:</p> <p>6</p> <p>7 DIRECT EXAMINATION,</p> <p>8 QUESTIONS BY THOMAS M. FISHER:</p> <p>9 Q Dr. Fogel, good afternoon. My name is Tom</p> <p>10 Fisher. I am a lawyer at the Attorney General's</p> <p>11 Office and I'll be taking the deposition of</p> <p>12 Eskenazi today. And as I understand it, you're</p> <p>13 the designated witness for Eskenazi today.</p> <p>14 Is that generally your understanding, what</p> <p>15 we're doing?</p> <p>16 A Yes.</p> <p>17 Q I hope not to take too long. We do have some</p> <p>18 questions to get through. We are going to start</p> <p>19 off by looking at some documents that have been</p> <p>20 produce in this case.</p> <p>21 So just make sure that we are all on the</p> <p>22 same page as to what this case is, let's mark as</p> <p>23 Exhibit 1, the complaint in this case. If I can</p> <p>24 show that on the witness?</p> <p>25 THE CONCIERGE: I'm introducing it. Please</p>

<p style="text-align: right;">Page 6</p> <p>1 just give me a moment. Okay. I am now 2 introducing Exhibit 1. 3 (Deposition Exhibit 1 marked for 4 identification.) 5 Q Dr. Fogel, have you seen this document before? 6 Does it look familiar? 7 MR. FISHER: You can scroll, maybe, for the 8 doctor to be able to read it. 9 A Yes, okay. 10 Q Are you familiar with this document? 11 A Yes. 12 Q What is your understanding of this document? 13 A My understanding is that the families of the 14 minors in this complaint are a little bit 15 nervous to paraphrase. They are objecting to 16 the passing of the bill or the law that prevents 17 the medical care of transgender children and 18 adolescents under the age of 18. 19 Q Just so we're clear, we all understand, this is 20 the complaint in the lawsuit where you have been 21 called to testify in today's deposition; 22 correct? 23 A That's correct. 24 Q Have you given a deposition before, doctor? 25 A One time, a couple of decades ago.</p>	<p style="text-align: right;">Page 8</p> <p>1 questions today? 2 A No. 3 Q Other than meeting with your attorney, did you 4 do anything else to prepare for today's 5 deposition? 6 A I read the documents that I was provided with. 7 Q Did you speak to anyone else about today's 8 testimony? 9 A No. 10 Q Are you being compensated for your testimony? 11 A No. 12 Q Other than Ms. Metzger, is there anyone else in 13 the room with you? 14 A Yes, Julie Conrad. 15 Q Now Ms. Conrad, as I understand it, is general 16 counsel for Eskenazi; is that right? 17 A That's correct. 18 Q Is anyone else in the room? 19 A No. 20 Q Do you have any documents open in front of you? 21 A No. 22 MR. FISHER: Okay. Now let's proceed to 23 Exhibit 2, which is Senate Enrolled Act 480. 24 THE CONCIERGE: I am now introducing 25 Exhibit 2.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q Doctor, if I could ask you to adjust your 2 screen; your camera is cutting off half your 3 face. There you go. 4 A Sorry. I can't read the document and have -- 5 anyway. It's fine. 6 Q We'll try to adjust the document as we need to 7 but thank you. 8 MR. FISHER: We're done with the document 9 for now. We can take that off and then that, 10 perhaps, will be less distracting. 11 Q You have been through a deposition before. 12 Let's just recap, sort of, what's going to 13 happen. 14 I'm going to ask you some questions. The 15 court reporter is going to record everything. 16 Obviously, you need to answer with the truth. 17 I am going to assume you understand my 18 questions unless you tell me you don't, but if 19 you don't, please speak up, let me know right 20 away; we'll get some clarity. We need verbal 21 answers, not gestures. 22 Is there any reason you can't understand my 23 questions today? 24 A No. 25 Q Any reason you can't respond truthfully to my</p>	<p style="text-align: right;">Page 9</p> <p>1 MR. FISHER: Make that just a little bit 2 bigger for the doctor. 3 THE CONCIERGE: Sure. 4 (Deposition Exhibit 2 marked for 5 identification.) 6 BY MR. FISHER 7 Q Doctor, have you seen this document before? 8 A I don't remember. 9 Q I'm going to represent to you that this is 10 Senate Enrolled Act 480. This is the law that 11 is being challenged in this lawsuit, which -- 12 (Audio distortion.) 13 (Discussion re: technical difficulties.) 14 MR. FISHER: We'll pick up from there. 15 Q I'm wondering if you have a general familiarity 16 with the contents of this statute? 17 A I do. 18 Q And what do you understand this statute to do? 19 MS. METZGER: Excuse me, Tom, I'm going to 20 object. This is not a topic of examination that 21 we received on our attachment with the subpoena. 22 I'm not sure what you plan on asking the doctor, 23 but she's not prepared to testify about the 24 substance on behalf of Eskenazi because that was 25 not requested of her.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q That's fine. Doctor, do you have an 2 understanding of what's embodied by Senate 3 Enrolled Act 480? 4 MS. METZGER: Excuse me one more time, 5 Mr. Fisher. Are you asking the doctor in her 6 personal capacity, or in her capacity as a 7 representative of Eskenazi? 8 MR. FISHER: In her capacity as a 9 representative of Eskenazi. 10 MS. METZGER: I'll continue to object based 11 on the fact that this was not an area of 12 examination that was designated to us. 13 MR. FISHER: Are you instructing the 14 witness not to answer? 15 MS. METZGER: It's not been designated as a 16 topic for examination. So she's not prepared to 17 answer. Certainly not on behalf of Eskenazi. 18 MR. FISHER: Fair enough. Let's go to 19 Exhibit 3. This is subpoena to testify at a 20 deposition in a civil action. 21 THE CONCIERGE: Mr. Fisher, is it listed as 22 the amended deposition subpoena 30(b)(6) 23 attachment? 24 MR. FISHER: No. It just says subpoena to 25 testify at a deposition in a civil action Health</p>	<p style="text-align: right;">Page 12</p> <p>1 A Okay, yes. 2 MR. FISHER: So let's mark the next one, 3 which is the attachment, Exhibit 4. 4 THE CONCIERGE: Hold on. I've introduced 5 Exhibit 4. 6 (Deposition Exhibit 4 marked for 7 identification.) 8 BY MR. FISHER 9 Q Doctor, does this document look familiar to you? 10 A Yes, I think so. 11 MS. METZGER: That's the list of topics 12 that we were asked to testify. 13 THE WITNESS: Yes, then, yes. 14 BY MR. FISHER 15 Q So this is the list of topics that you have been 16 subpoenaed -- or Eskenazi has been subpoena to 17 testify on today. 18 And you have read this list of topics? 19 A Yes. 20 Q Are you prepared to testify on each of these 21 topics? 22 A Most of the topics. There was some questions 23 about numbers and data and statistics that were 24 easily available, which I don't have. That's 25 not something in the normal course of my</p>
<p style="text-align: right;">Page 11</p> <p>1 and Hospital Corporation of Marion County d/b/a 2 Eskenazi Health. 3 THE CONCIERGE: There's a document listed 4 documents subpoena and document subpoena 5 attachment. 6 MR. FISHER: The subpoena first then we'll 7 do the attachment. 8 THE CONCIERGE: Okay. Please standby. 9 (Deposition Exhibit 3 marked for 10 identification.) 11 BY MR. FISHER 12 Q Doctor, are you familiar with this document 13 that's been marked as Exhibit 3? 14 A Honestly, I don't know. 15 MS. METZGER: It's her deposition subpoena, 16 doctor, and we've provided you that along with 17 the list of topics that were designated for your 18 deposition. 19 A Okay. So then I'll say, yes, I've seen it. 20 Q All right. 21 A I'm not -- you know, there's just a lot of legal 22 language that, you know, a lot of it just kind 23 of -- it all looks the same after awhile. 24 Q Understood. I'm just asking you to identify it. 25 But your testimony is you've seen it?</p>	<p style="text-align: right;">Page 13</p> <p>1 practice that I have that information. 2 Q Other than those aggregate numbers, is there 3 anything else that you're not prepared to 4 testify about? 5 MS. METZGER: You were asked to testify 6 about the medical record of A.M. 7 A Oh, yes. That I'm not prepared to testify about 8 'cause I have never met that patient. 9 MR. FISHER: Well, this goes back to, I 10 guess, the earlier conversation. I thought we 11 were having a witness that was going to be 12 prepared to testify for Eskenazi on each of 13 these subjects? 14 MS. METZGER: The data and statistics that 15 are the ones at the end, are not documents that 16 are kept in the ordinary course of Eskenazi's 17 business -- or statistics that are kept in the 18 ordinary course of Eskenazi's. So she would 19 have no means to testify to that. 20 And as to the medical records, the patient 21 was seen at Midtown Mental Health. She was not 22 able to be seen Gender Health Clinic because of 23 her age. We know the name of the person that 24 treated her at Midtown, and that person would be 25 the best one to testify as to the substance of</p>

<p style="text-align: right;">Page 14</p> <p>1 her medical records.</p> <p>2 MR. FISHER: Separately, we may have to set</p> <p>3 up a separate deposition for that, for that</p> <p>4 person.</p> <p>5 MS. METZGER: We'll cooperate with that.</p> <p>6 MR. FISHER: Terrific. Thank you.</p> <p>7 BY MR. FISHER</p> <p>8 Q Anything else that you are not prepared to</p> <p>9 testify about?</p> <p>10 A No.</p> <p>11 MS. HOLMES: I think I have noticed an</p> <p>12 error in the exhibits that have been published</p> <p>13 to the screen. It looks like the documents</p> <p>14 subpoena and the document subpoena attachment</p> <p>15 were shown, and not the deposition subpoena and</p> <p>16 the 30(B)(6) subpoena attachment.</p> <p>17 MR. FISHER: Thank you, Melinda. Let's go</p> <p>18 ahead and pull up -- we'll just keep those as</p> <p>19 marked. We'll mark Exhibit 5 the 30(B)(6)</p> <p>20 subpoena and attachment.</p> <p>21 THE CONCIERGE: I'm pulling that up. This</p> <p>22 is Exhibit 5.</p> <p>23 MR. FISHER: And then there should be a</p> <p>24 subpoena as well, that was the cover for that</p> <p>25 attachment.</p>	<p style="text-align: right;">Page 16</p> <p>1 BY MR. FISHER</p> <p>2 Q Doctor, this is the list of topics just to</p> <p>3 clarify you. This is the document we thought we</p> <p>4 were talking about earlier that lists the topics</p> <p>5 for today's testimony.</p> <p>6 Is that your understanding?</p> <p>7 A Yes.</p> <p>8 Q Let's mark as Exhibit 7 the amended non-party</p> <p>9 health and hospital corporation's response that</p> <p>10 came in -- one of the ones that was just</p> <p>11 uploaded earlier today.</p> <p>12 THE CONCIERGE: Mr. Fisher, is that part of</p> <p>13 the attachment that was sent by your assistant?</p> <p>14 MR. FISHER: Yes.</p> <p>15 THE CONCIERGE: Is it listed as Eskenazi</p> <p>16 Health's Amended Response?</p> <p>17 MR. FISHER: Yes.</p> <p>18 THE CONCIERGE: Please standby. Exhibit 7</p> <p>19 is now on the screen.</p> <p>20 (Deposition Exhibit 7 marked for</p> <p>21 identification.)</p> <p>22 BY MR. FISHER</p> <p>23 Q Doctor, are you familiar with this document?</p> <p>24 A I don't think so.</p> <p>25 Q Doctor, what is your role at Eskenazi?</p>
<p style="text-align: right;">Page 15</p> <p>1 THE CONCIERGE: Is that on a separate</p> <p>2 document? Or do you want me to scroll down?</p> <p>3 MR. FISHER: No, it you should be a</p> <p>4 separate document.</p> <p>5 THE CONCIERGE: Is that listed as the</p> <p>6 subpoena, amended deposition subpoena?</p> <p>7 MR. FISHER: Yes, probably.</p> <p>8 THE CONCIERGE: Will that be Exhibit 5?</p> <p>9 MR. FISHER: Yeah, let's make that</p> <p>10 Exhibit 5 please.</p> <p>11 THE CONCIERGE: Exhibit 5 is now on the</p> <p>12 screen.</p> <p>13 (Deposition Exhibit 5 marked for</p> <p>14 identification.)</p> <p>15 BY MR. FISHER</p> <p>16 Q Doctor, I think this is the subpoena to testify</p> <p>17 at deposition that we intended to mark earlier.</p> <p>18 Just to confirm, that's your understanding of</p> <p>19 what this is?</p> <p>20 A Yes.</p> <p>21 MR. FISHER: Let's mark as Exhibit 6 the</p> <p>22 attachment.</p> <p>23 THE CONCIERGE: Exhibit 6 is on the screen.</p> <p>24 (Deposition Exhibit 6 marked for</p> <p>25 identification.)</p>	<p style="text-align: right;">Page 17</p> <p>1 A I'm the medical director of the Gender Health</p> <p>2 Program. I'm also a family physician.</p> <p>3 Q And how long have you been employed at Eskenazi?</p> <p>4 A Since 1996. So 27 years. That's a long time.</p> <p>5 Q What is your employment history at Eskenazi?</p> <p>6 A So I started out working in the urgent care</p> <p>7 center. That lasted for about a year.</p> <p>8 Then I worked at one of the Community</p> <p>9 Health Center sites. I also worked for IU, and</p> <p>10 then back to Eskenazi, maybe, 15 years ago. But</p> <p>11 I have always worked intermittently for them.</p> <p>12 In about 2016, I started the Gender Health</p> <p>13 Program at Eskenazi. Now that is all I do.</p> <p>14 Q What do your responsibilities include in that</p> <p>15 role?</p> <p>16 A Patient care, and some administrative duties,</p> <p>17 programmatic duties, educational. I teach</p> <p>18 residents at IU School of Medicine. So we have</p> <p>19 a LGBTQ health track; so I supervise four</p> <p>20 residents. So those are my main duties.</p> <p>21 Q I want to make sure I understood. You said an</p> <p>22 "LGBTQ health track"?</p> <p>23 A Yes.</p> <p>24 Q What does that mean?</p> <p>25 A So we educate family medicine residents in</p>

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<p style="text-align: right;">Page 18</p> <p>1 caring for gender diverse patients.</p> <p>2 MR. FISHER: We should be ready now for</p> <p>3 Exhibit 8, which is the Eskenazi Health Gender</p> <p>4 Health Program. It looks like a brochure. It</p> <p>5 should be two pages.</p> <p>6 THE CONCIERGE: I'm introducing Exhibit 8</p> <p>7 on the screen.</p> <p>8 (Deposition Exhibit 8 marked for</p> <p>9 identification.)</p> <p>10 BY MR. FISHER</p> <p>11 Q Doctor, do you recognize this document? And</p> <p>12 then maybe we could scroll for the doctor to the</p> <p>13 second page?</p> <p>14 A I do.</p> <p>15 Q What is this document?</p> <p>16 A It's a brochure regarding our program.</p> <p>17 Q When was this created?</p> <p>18 A 2017 probably.</p> <p>19 Q Is it currently used by the Gender Health</p> <p>20 Program?</p> <p>21 A Yes.</p> <p>22 Q Do you know who created it?</p> <p>23 A It would have been myself and the PR department</p> <p>24 at Eskenazi.</p> <p>25 MR. FISHER: Let's mark Exhibit 9, Gender</p>	<p style="text-align: right;">Page 20</p> <p>1 A I don't know. I can't answer that. I'm not</p> <p>2 sure.</p> <p>3 Q Is there a document -- is there a document --</p> <p>4 oh, go ahead.</p> <p>5 (Audio distortion.)</p> <p>6 A No, I think it's just a fairly new document.</p> <p>7 And they usually get sent out -- well, maybe</p> <p>8 not.</p> <p>9 You know, I think I just never seen it</p> <p>10 before. Documents like this get sent out</p> <p>11 periodically. Sometimes we read them.</p> <p>12 Sometimes we don't. Sometimes they get missed,</p> <p>13 but it look accurate to me.</p> <p>14 Q I'm just sort of curious what function this</p> <p>15 document plays or a document like it would play</p> <p>16 at the Gender Health Program?</p> <p>17 A I think it just outlines the services we</p> <p>18 provide.</p> <p>19 Q Who is the intended audience for it?</p> <p>20 A Other physicians. People that work for</p> <p>21 Eskenazi.</p> <p>22 Q Do they use it as some sort of practice guide?</p> <p>23 A Yeah. I mean, there are polices at Eskenazi</p> <p>24 about all topics. And this is just one of them.</p> <p>25 And I suppose you could consider it that.</p>
<p style="text-align: right;">Page 19</p> <p>1 Health Program Scope of services.</p> <p>2 THE CONCIERGE: Exhibit 9 is now on the</p> <p>3 screen.</p> <p>4 (Deposition Exhibit 9 marked for</p> <p>5 identification.)</p> <p>6 BY MR. FISHER</p> <p>7 Q Doctor, do you recognize this document?</p> <p>8 MS. METZGER: Mr. Fisher, I have a hard</p> <p>9 copy here of the document. Would you mind if I</p> <p>10 let the doctor look at that? It might be a</p> <p>11 little easier for her to see.</p> <p>12 MR. FISHER: Yes, please do.</p> <p>13 MS. METZGER: I just gave her Eskenazi 87</p> <p>14 through 91.</p> <p>15 A So I have not seen the final version of this; so</p> <p>16 I'm reading it. Do you want me to continue</p> <p>17 reading it or -- but so far it all looks</p> <p>18 accurate.</p> <p>19 BY MR. FISHER</p> <p>20 Q I guess I'm wondering what it is?</p> <p>21 A It looks like it's a description of our program.</p> <p>22 Q So this is a document that was provided to us in</p> <p>23 response to our document subpoena. And I'm</p> <p>24 curious, are you suggesting this document is a</p> <p>25 draft document of some kind?</p>	<p style="text-align: right;">Page 21</p> <p>1 Q But is it more appropriately understood to be a</p> <p>2 policy document?</p> <p>3 A Yes, I would say so.</p> <p>4 Q Let's go ahead and mark Exhibit 10, which says</p> <p>5 "Eskenazi Health Welcomes All."</p> <p>6 MS. METZGER: Are we on Eskenazi 3 through</p> <p>7 16?</p> <p>8 MR. FISHER: Yes, that's right.</p> <p>9 MS. METZGER: May I give the doctor a hard</p> <p>10 copy? This is the informed consent packet.</p> <p>11 MR. FISHER: Yes, of course.</p> <p>12 THE WITNESS: This I'm familiar with.</p> <p>13 MR. FISHER: Zef, do we have the --</p> <p>14 THE CONCIERGE: Yes, I'm bringing it up</p> <p>15 right now.</p> <p>16 (Deposition Exhibit 10 marked for</p> <p>17 identification.)</p> <p>18 BY MR. FISHER</p> <p>19 Q Okay. Doctor, I believe you have the full</p> <p>20 document in front of you. The first page is on</p> <p>21 the screen. And did you say you are familiar</p> <p>22 with this document?</p> <p>23 A Yes, I am.</p> <p>24 Q What is this document?</p> <p>25 A This is a document we use when we're talking to</p>

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<p style="text-align: right;">Page 22</p> <p>1 new patients. It's in a new patient packet of 2 material that we hand out to all new patients. 3 And it goes through -- the one that I have in 4 front of me is -- and the one that I -- well, I 5 can't tell, but we have one that's specific for 6 feminizing hormone therapy and one that's 7 specific for masculinizing hormone therapy. And 8 it talks about each type of hormone therapy and 9 the risks and the benefits of each kind, 10 respectively. 11 So that's something that we verbally go 12 through with each patient as they're a new 13 patient, or anytime a patient is interested in 14 starting gender-affirming hormones, to make sure 15 that they understand the risks and the benefits. 16 Q Is this a document that the patients would sign 17 after you go through it with them? 18 A All the patients that we see that are less than 19 18, we have the patient and the parent or 20 guardian sign the document after we have 21 reviewed it and they have read it. 22 For patients that are older than 18, we go 23 through it with them but we don't require them 24 to sign it. 25 Q Does a copy of it go into the patient's medical</p>	<p style="text-align: right;">Page 24</p> <p>1 with the doctor if that's something you have. 2 MS. METZGER: I do. And this is Eskenazi 3 17 through -- 4 MR. FISHER: Yeah, through 49. 5 MS. METZGER: -- through 49, yeah. 6 THE WITNESS: This is 7 or 8? 7 MR. FISHER: Number 11. Exhibit 11. 8 THE WITNESS: Standards of care. It's 9 SOC7. 10 THE CONCIERGE: Exhibit 11 is now on the 11 screen. 12 (Deposition Exhibit 11 marked for 13 identification.) 14 BY MR. FISHER 15 Q Doctor, are you familiar with this document? 16 A Yes. 17 Q What is this document? 18 A It is the WPATH Standards of Care Version 7. 19 Q Is this the standards of care that Eskenazi 20 follows in the Gender Health Program? 21 A It's one of them. 22 MR. FISHER: Let's go ahead and mark 23 Exhibit 12. And this is the Endocrine 24 Society: Endocrine Treatment of 25 Gender-Dysphoric.</p>
<p style="text-align: right;">Page 23</p> <p>1 records regardless? 2 A A copy goes home with the patient. 3 Q You don't keep a signed informed consent 4 document in the medical file for the patient? 5 A Only for the patients that are under 18 because 6 they actually sign it. The patients that take 7 it home, we don't require them to sign it. 8 We provide the information, we go over it 9 with them verbally in clinic at their 10 appointment; and then we get their verbal 11 informed consent. 12 Q Were you involved in the creation of this 13 document? 14 A Yes. 15 Q Do you know when it was created? 16 A It would have been probably 2016, 2017, you 17 know, earlier on at the beginning of my 18 practice. 19 Q And it's up to date? 20 A Yes. 21 Q This is the document you currently use? 22 A It is. 23 MR. FISHER: Let's go mark the next 24 Exhibit 11. This is the WPATH Standards of 25 Care. And feel free to share the full document</p>	<p style="text-align: right;">Page 25</p> <p>1 Kim, this is Eskenazi 52 through 86. Feel 2 free to share the full copy with the doctor. 3 MS. METZGER: I've given a copy to the 4 doctor. 5 (Deposition Exhibit 12 marked for 6 identification.) 7 A This is another document that we also use. 8 Guidelines that we use in practice. 9 BY MR. FISHER 10 Q So are there any other standards of care or 11 guidelines that you use in practice besides the 12 WPATH standards and the Endocrine Society 13 standards? 14 A Yes, there are a number of well-regarded gender 15 health programs around the country, and so we do 16 use their guidelines as well. 17 UCSF San Francisco has a very robust 18 transgender program, and so we use their 19 guidelines. And we also use the guidelines that 20 have been put out by Fenway Health in Boston. 21 Q Any others? 22 A On occasion, but those are the four that we 23 mainly use. 24 Q Are those guidelines ever inconsistent with one 25 another?</p>

<p style="text-align: right;">Page 26</p> <p>1 A Sometimes there are small inconstancies, mainly 2 around maximum dosing of various hormones. 3 Q How do you decide -- when there's those sorts of 4 inconstancy -- which guidelines to follow? 5 A Mostly it depends on the patient. 6 Q Why follow, roughly, four different sets of 7 guidelines plus maybe a few others here and 8 there? 9 A Well, 'cause I think there's no one set of 10 guidelines that can cover everything. And I 11 think it's good to get opinions of different 12 experts in the field and then look at the 13 patient in front of you and think about how it 14 might apply to those patients and which one 15 seems to be the most accurate. Mostly the 16 guidelines are pretty well aligned. 17 You also have different sets of 18 information. So the UCSF guidelines and WPATH 19 are very broad and all encompassing. And they 20 cover a lot more information than just dosing of 21 hormones and management of hormones; whereas, 22 the guidelines from Fenway and Endocrine Society 23 are a little more concise and focus more on the 24 management of gender-affirming hormones. 25 Q My understanding is that WPATH has a Version 8</p>	<p style="text-align: right;">Page 28</p> <p>1 chapters in 8 that are not in 7. So that's the 2 other difference. 3 Q Anything with respect to the treatment of minors 4 that's different? 5 A I don't know. I'd have to go back and read them 6 again, the two chapters, side by side. 7 Q Just for sake of completeness, let's mark 8 Exhibit 13. Says "Support Groups," at the top. 9 Two-page document. 10 THE CONCIERGE: Hold on. Exhibit 13 is now 11 on the screen. 12 (Deposition Exhibit 13 marked for 13 identification.) 14 BY MR. FISHER 15 Q Doctor, do you recognize this document? 16 A Yes. 17 Q What is this document? 18 A This is a document that we provide to patients 19 regarding support groups or organizations that 20 can provide support. 21 Q And were you involved in putting this document 22 together? 23 A I was. 24 Q When was it created? 25 A Well, it's an ongoing changing document. We</p>
<p style="text-align: right;">Page 27</p> <p>1 that's out. 2 A That's correct. 3 Q But you use Version 7? 4 A We do. Primarily because insurance companies 5 are still using Version 7, and I think Version 8 6 has a more expanded list of chapters. So there 7 are certain things where I would go to Version 8 8 if I needed more information. 9 Q Are there any differences in terms of materially 10 different -- I guess maybe a way to put it -- 11 materially different standards of care from 12 Version 7 to Version 8? 13 A The difference that I noted most were in, for 14 example, requirements for surgery. 15 So currently, in Version 7, for different 16 types of gender-affirming surgeries, you need 17 different numbers of letters for medical 18 providers and mental health providers. And 19 those are slightly different in Version 8. 20 Q Which version on that subject do you follow? 21 A So we're currently following 7 because insurance 22 companies are following 7. 23 Q Any other differences between 7 and 8 that you 24 know of? 25 A Well, as I mentioned, there are a number of new</p>	<p style="text-align: right;">Page 29</p> <p>1 would have started compiling a list of 2 affirming, supportive places that patients could 3 go for mental health support. We would have 4 started compiling that list in 2017, and we 5 continually add to it as we learn of new places. 6 Q Okay. We have identified all of these exhibit, 7 and now I want to talk to you, generally, about 8 the Gender Health Program. 9 What gender transition procedures does 10 Eskenazi provide? 11 A Can you be more specific by what you mean by 12 gender transition procedures? It's not a term 13 we generally use. 14 Q What term do you usually use? 15 A It depends on what I'm talking about: if I'm 16 talking about medical transition, social 17 transition, legal transition, surgical 18 transition. 19 Q Let's start with medical transition. What do 20 you provide for medical transition? 21 A So it's patient-dependent. Some patients desire 22 to be on gender-affirming hormone therapy, and 23 so we do provide that. So that's what we do for 24 medical transition. 25 Q And what about surgical transition?</p>

<p style="text-align: right;">Page 30</p> <p>1 A We do have a gender-affirming surgery program</p> <p>2 that is -- it's not -- we're sort of</p> <p>3 complimentary to each other. We have a plastic</p> <p>4 surgeon who does affirming top surgeries. We</p> <p>5 have a urologist who does a variety of bottom</p> <p>6 surgeries, and we have a facial plastic surgeon</p> <p>7 who does facial procedures.</p> <p>8 Q Just so we're clear, what do you mean by top</p> <p>9 surgery?</p> <p>10 A Chest reconstruction or masculinization and</p> <p>11 breast augmentation.</p> <p>12 Q So masculinization, is that the same things as a</p> <p>13 mastectomy?</p> <p>14 A It's similar but it is a more complete procedure</p> <p>15 that contours the chest so that it looks like a</p> <p>16 masculine chest. And it usually involves</p> <p>17 repositioning the nipples and reshaping the</p> <p>18 nipples to look more masculine.</p> <p>19 Q What is bottom surgery?</p> <p>20 A Bottom surgeries refers to genital surgeries.</p> <p>21 And it can be feminizing or masculinizing.</p> <p>22 The feminizing surgeries would include an</p> <p>23 orchiectomy, which is the removal of testes. Or</p> <p>24 it could be vaginoplasty, which is removal of</p> <p>25 the penis and testes and the creation of a</p>	<p style="text-align: right;">Page 32</p> <p>1 A We do not.</p> <p>2 Q What about surgical transition, do you provide</p> <p>3 surgical transition to minors?</p> <p>4 A We do not.</p> <p>5 Q Why don't you provide medical transition to</p> <p>6 minors under 16?</p> <p>7 A That's just my comfort level. My preference. I</p> <p>8 just decided that. When I started this program,</p> <p>9 there was -- you know, there are other programs</p> <p>10 that do a great job providing services to</p> <p>11 younger adolescents and children. And so I just</p> <p>12 decided that that's what I wanted to do because</p> <p>13 that's what I felt comfortable doing.</p> <p>14 Q Felt comfortable in what way?</p> <p>15 A You know, I had to learn because I didn't learn</p> <p>16 any of this in medical school. So I had to</p> <p>17 learn how to do gender-affirming care on my own.</p> <p>18 And it was a lot to learn. It took me 9 to 12</p> <p>19 months to learn as much as I could to feel</p> <p>20 comfortable providing care. And that was more</p> <p>21 learning that I just, at the time, just, didn't</p> <p>22 feel like I had the capacity to do.</p> <p>23 Q Why 16? Why is that, sort of, the magic number</p> <p>24 for you?</p> <p>25 A I mean it's just a -- postpubertal is a better</p>
<p style="text-align: right;">Page 31</p> <p>1 neovagina. And it can be a full-depth</p> <p>2 vaginoplasty, which creates an opening that</p> <p>3 usually is somewhere about 4 inches deep so that</p> <p>4 the person can have penetrative frontal sex. Or</p> <p>5 it can be what's called zero depth vaginoplasty,</p> <p>6 or vulvoplasty, which is the creation of the</p> <p>7 appearance of external female genitalia, but</p> <p>8 there's no depth to the -- there's no vagina</p> <p>9 that has any depth.</p> <p>10 There are also some masculinizing</p> <p>11 procedures that our surgeons can do. The</p> <p>12 masculinizing procedures include something</p> <p>13 called a metoidioplasty, which is the</p> <p>14 lengthening and release of the clitoris to form</p> <p>15 a microphallus. And there's also phalloplasty,</p> <p>16 which is the creation of a neopenis.</p> <p>17 Q So let's go back to the medical transition for a</p> <p>18 second.</p> <p>19 Do you provide medical transition services</p> <p>20 to minors?</p> <p>21 A We do provide medical transition to patients</p> <p>22 that are over the age of 16 that are</p> <p>23 postpubertal.</p> <p>24 Q Do you ever provide what I think many people</p> <p>25 refer to as puberty blockers?</p>	<p style="text-align: right;">Page 33</p> <p>1 description. I mean, most of our patients are</p> <p>2 over 16. But I wanted to make sure our patients</p> <p>3 were postpubertal, that they wouldn't need</p> <p>4 puberty blockers 'cause that really wasn't</p> <p>5 something at the time I felt like I wanted to</p> <p>6 learn how to do.</p> <p>7 Q I see. So the need for puberty blockers versus</p> <p>8 hormone therapy is sort of the -- that's the</p> <p>9 cutoff really for you and you implement that in</p> <p>10 a way?</p> <p>11 A Yes.</p> <p>12 Q Do you have other doctors in your practice?</p> <p>13 A We do, yes.</p> <p>14 Q And do any of them provide puberty blockers or</p> <p>15 treat minors for gender dysphoria below the age</p> <p>16 of 16?</p> <p>17 A No.</p> <p>18 Q Are any of them trained to do that?</p> <p>19 A I mean, I would say there's not really any</p> <p>20 specific training. I think you need to just</p> <p>21 educate yourself. And it's not -- you know, if</p> <p>22 somebody wanted to do it, they could. They just</p> <p>23 would need -- I would recommend going to</p> <p>24 conferences and learning about it just like I</p> <p>25 learned about how to do -- provide medical care</p>

<p style="text-align: right;">Page 34</p> <p>1 for gender diverse people. So you could do it.</p> <p>2 We've just chosen not to.</p> <p>3 Q Well, so as far as you're aware, none of the</p> <p>4 physicians in the Gender Health Program have</p> <p>5 learned about treating minors below the age of</p> <p>6 16 for gender dysphoria?</p> <p>7 A Correct.</p> <p>8 Q And if one of them came to you and expressed a</p> <p>9 desire to do that with an eye towards developing</p> <p>10 that practice at Eskenazi, what would your</p> <p>11 reaction be?</p> <p>12 A We would have to have a conversation. My first</p> <p>13 inclination would be, no, because our clinic is</p> <p>14 situated in an adult medicine area. And so</p> <p>15 we're just not -- you know, we're not -- our</p> <p>16 nurses are not equipped to treat children. We</p> <p>17 don't have the infrastructure right now and the</p> <p>18 support that families would need. So I think I</p> <p>19 would say, no.</p> <p>20 Q Okay. So what about surgical transition; I</p> <p>21 think if I remember correctly you said you do</p> <p>22 not provide any surgical transition procedures</p> <p>23 to minors?</p> <p>24 A Correct.</p> <p>25 Q Why not?</p>	<p style="text-align: right;">Page 36</p> <p>1 would be the child that is graduating high</p> <p>2 school and is wanting to go to college and wants</p> <p>3 to live in their affirmed gender at college in a</p> <p>4 dorm, for example. So for that patient, if</p> <p>5 their maturity level is such that they can</p> <p>6 provide informed consent, if the parent provides</p> <p>7 informed consent, that would be the type of</p> <p>8 patient where I would think it would be possibly</p> <p>9 a good idea to do surgery even though they may</p> <p>10 not be 18. But it's specific cases like that.</p> <p>11 It's not going to be a blanket statement.</p> <p>12 Q I'm curious, how does the timing of going off to</p> <p>13 college affect your judgment about the</p> <p>14 appropriateness?</p> <p>15 A As I said, you know, if somebody is in high</p> <p>16 school and they have not been able to present in</p> <p>17 the way they feel affirmed and then going off to</p> <p>18 college -- where people don't know them, where</p> <p>19 they might be able to change their name and</p> <p>20 gender marker and present in a way that feels</p> <p>21 comfortable -- having that surgery completed</p> <p>22 before they get there would be very affirming to</p> <p>23 them and would allow them to live in their</p> <p>24 affirmed gender.</p> <p>25 Q If that patient before going off to college said</p>
<p style="text-align: right;">Page 35</p> <p>1 A Well, because the guidelines state -- you know,</p> <p>2 the WPATH guidelines, the SOC7 are pretty</p> <p>3 clear -- they don't recommend surgeries,</p> <p>4 particularly bottom surgeries, for people below</p> <p>5 the age of 18.</p> <p>6 Q My understanding is that SOC8 eliminates that</p> <p>7 age barrier. Is that your understanding?</p> <p>8 A I'd have to go and review that 'cause I don't</p> <p>9 know at this point whether that is correct or</p> <p>10 not.</p> <p>11 Q If that were correct, would that change your, I</p> <p>12 guess, your policy or your opinion about</p> <p>13 offering surgeries to minors?</p> <p>14 MS. METZGER: I'm going to object. That's</p> <p>15 an incomplete hypothetical.</p> <p>16 Doctor, if you can answer that question, go</p> <p>17 ahead.</p> <p>18 A Yeah. So I think that it's patient specific; I</p> <p>19 don't think I would make any broad statements</p> <p>20 about providing surgeries to minors. There are</p> <p>21 some circumstances where I think it would be</p> <p>22 beneficial to someone to have a surgery, an</p> <p>23 affirming surgery.</p> <p>24 The one -- the instance that comes to mind</p> <p>25 for both top surgeries and bottom surgeries</p>	<p style="text-align: right;">Page 37</p> <p>1 "Notwithstanding that I haven't been able to</p> <p>2 live in my affirmed gender the way that I would</p> <p>3 like, I want to go ahead and do the surgery</p> <p>4 now," would you be prepared to go forward with</p> <p>5 that?</p> <p>6 MS. METZGER: I'm going to object to</p> <p>7 incomplete hypothetical.</p> <p>8 Doctor, if you can answer that question, go</p> <p>9 ahead.</p> <p>10 A Again, I think it's just patient specific. It</p> <p>11 would definitely need a lot of -- really, you</p> <p>12 know, a lot of conversation with the patient,</p> <p>13 the family, surgeon.</p> <p>14 Q What kinds of information would you be looking</p> <p>15 for in those conversations?</p> <p>16 A I think it's going to be the support, pre and</p> <p>17 postoperatively. Physically, some surgeries can</p> <p>18 be very challenging and a lot of support would</p> <p>19 be needed. More so for bottom surgery than for</p> <p>20 top surgery.</p> <p>21 You know there's logistics, like: are you</p> <p>22 able to take this much time off school? Is your</p> <p>23 parent or guardian able to take that much time</p> <p>24 off work? Do you understand that this is an</p> <p>25 irreversible procedure for the most part? We</p>

<p style="text-align: right;">Page 38</p> <p>1 would have conversations about fertility. So</p> <p>2 there's a lot that goes into it.</p> <p>3 Q Okay. Bear with me a second. I think we're</p> <p>4 pretty close to being done. Give me a minute.</p> <p>5 For medical transition for the minors that</p> <p>6 you do treat in that, roughly, 16 to 18 age</p> <p>7 range, are you aware of whether you see more</p> <p>8 male to female, or female to male transitions?</p> <p>9 A It's probably evenly split. Yeah, I think it's</p> <p>10 pretty close to even.</p> <p>11 Q Has that ratio changed at all over time since</p> <p>12 you founded the program?</p> <p>13 A I don't think so.</p> <p>14 Q Are there any circumstances where you have a</p> <p>15 patient that's a minor with gender dysphoria who</p> <p>16 is looking to be prescribed hormones but you</p> <p>17 would refuse to prescribe those hormones?</p> <p>18 MS. METZGER: Tom, when you say minor, are</p> <p>19 you talking about children, or adolescents 16 to</p> <p>20 18?</p> <p>21 Q I'm talking 16 to 18.</p> <p>22 A Yeah, there are circumstance. So sometimes we</p> <p>23 have patients -- and this really refers to</p> <p>24 patients of all ages; it's not specific to</p> <p>25 minors.</p>	<p style="text-align: right;">Page 40</p> <p>1 of hormones or will guide us to use a specific</p> <p>2 formulation or type of hormone. So for those</p> <p>3 patients, we'll wait.</p> <p>4 The other reason we will wait is if someone</p> <p>5 wants to complete fertility preservation. Then</p> <p>6 we always wait until after that's been completed</p> <p>7 before we start gender-affirming hormones.</p> <p>8 Q Any circumstances besides those? I guess, I</p> <p>9 counted three: uncertainty, contraindication,</p> <p>10 or fertility preservation?</p> <p>11 Any other circumstances where you would</p> <p>12 say, "No, we're not going to prescribe</p> <p>13 hormones"?</p> <p>14 A If there is a mental health, you know,</p> <p>15 significant mental health comorbidity where we</p> <p>16 feel they couldn't consent to any kind of</p> <p>17 treatment for anything. You know, they have to</p> <p>18 be able to understand the consent form and</p> <p>19 consent to hormones before they will get a</p> <p>20 prescription.</p> <p>21 Cognitive impairment. I had a patient who</p> <p>22 has a history of traumatic brain injury. And</p> <p>23 after meeting with the patient myself, they met</p> <p>24 with the mental health provider, I wasn't sure</p> <p>25 that they were cognitively able to understand</p>
<p style="text-align: right;">Page 39</p> <p>1 Some patients are unsure whether they want</p> <p>2 to start hormones and they are just exploring</p> <p>3 their gender identity; so we talk through that.</p> <p>4 And if they are not ready, we would encourage</p> <p>5 them to do more exploration before starting</p> <p>6 gender-affirming hormones. Hormone are not the</p> <p>7 answer for everybody. Most of our patients do</p> <p>8 want to be on hormones but certainly not all of</p> <p>9 our patients. So for some patients, we take it</p> <p>10 slow. We let them guide us.</p> <p>11 And there are some medical indications</p> <p>12 where I've asked patients to do some more</p> <p>13 medical testing before starting hormones. The</p> <p>14 thing that comes to mind is breast cancer risk.</p> <p>15 So if a patient comes to me, a transfeminine</p> <p>16 patient comes to me and says "I'd like to start</p> <p>17 estradiol but I have a family history of BRCA</p> <p>18 mutation" -- or a gene mutation that increases</p> <p>19 their risk of breast cancer -- "I have this in</p> <p>20 my family," I'll send them to a medical</p> <p>21 geneticist for genetic testing before I start</p> <p>22 them on gender-affirming hormones.</p> <p>23 So there are some medical conditions that</p> <p>24 we screen for that will either preclude the</p> <p>25 use -- although that's rare -- preclude the use</p>	<p style="text-align: right;">Page 41</p> <p>1 the information I was providing to them. So it</p> <p>2 took several visits. We worked with -- we have</p> <p>3 occupational therapist who they worked with to</p> <p>4 get this patient to the point where I felt that</p> <p>5 they could provide an informed consent. And</p> <p>6 they were able to start gender-affirming</p> <p>7 hormones.</p> <p>8 Q So sounds like you distinguished a little bit,</p> <p>9 at least, between mental health and cognitive</p> <p>10 impairment -- which, that's great, fine -- but</p> <p>11 are those standards any different for treating</p> <p>12 gender dysphoria with hormones versus any other</p> <p>13 medical context?</p> <p>14 A No. I think you would apply the same standards</p> <p>15 to any medication.</p> <p>16 Q Okay. Then fertility preservation. Tell me</p> <p>17 about that.</p> <p>18 A We, before a patient starts gender-affirming</p> <p>19 hormone therapy, we always discuss fertility</p> <p>20 preservation as an option for them. If they're</p> <p>21 interested in that, we can provide them with</p> <p>22 local and online resources to do that.</p> <p>23 Q Why worry about fertility preservation?</p> <p>24 A Well, I think that any medication that could</p> <p>25 potentially interfere with fertility is</p>

<p style="text-align: right;">Page 42</p> <p>1 something that you need to know about as a</p> <p>2 potential side effect. So I think it's a</p> <p>3 reasonable concern to have and to raise with</p> <p>4 patients.</p> <p>5 Q Specifically with respect to hormone therapy?</p> <p>6 A Correct.</p> <p>7 MR. FISHER: We may just be just about</p> <p>8 done. Can we take five minutes and I can confer</p> <p>9 with my colleagues, and then we can come back?</p> <p>10 MR. FALK: That's fine. We will confer on</p> <p>11 this end as well.</p> <p>12 (A recess was taken between 1:38 p.m. and</p> <p>13 1:46 p.m.)</p> <p>14 MR. FISHER: Doctor, thank you very much.</p> <p>15 I don't have any additional questions. Though,</p> <p>16 perhaps, your counsel or Mr. Falk will.</p> <p>17 MR. FALK: I just have a couple. I don't</p> <p>18 know who wants to go first.</p> <p>19 THE WITNESS: Can I just add one thing?</p> <p>20 MR. FISHER: Sure.</p> <p>21 THE WITNESS: Just to clarify. When you</p> <p>22 were asking me about surgery on minors; I want</p> <p>23 to clarify that I don't think Eskenazi should</p> <p>24 start performing surgeries, gender-affirming</p> <p>25 surgeries on minors.</p>	<p style="text-align: right;">Page 44</p> <p>1 CROSS-EXAMINATION,</p> <p>2 QUESTIONS BY KENNETH J. FALK:</p> <p>3 Q Doctor, hi, I'm Ken Falk. I represent the</p> <p>4 plaintiffs in this case. I'm looking at -- I</p> <p>5 want to stick with the topics you were asked to</p> <p>6 talk about.</p> <p>7 In request -- looking at production of</p> <p>8 documents, in Request Number 1, you were asked</p> <p>9 to produce information concerning the services</p> <p>10 offered. And this indicates -- I just want to</p> <p>11 confirm; it's not signed by you -- at the</p> <p>12 current time, you have approximately or fewer</p> <p>13 than 20 patients aged 16 or 17 receiving</p> <p>14 services at the Gender Health Clinic?</p> <p>15 A That's correct.</p> <p>16 Q And I believe you said the majority of patients</p> <p>17 that you see who are minors are receiving</p> <p>18 gender-affirming hormones; is that correct?</p> <p>19 A Yes.</p> <p>20 Q And, again, asking about the services and care</p> <p>21 provided -- and I don't need to know peoples'</p> <p>22 names -- how many persons, if you can tell me by</p> <p>23 job category, are providing services at the</p> <p>24 Gender Health Clinic who are licensed through</p> <p>25 the state of Indiana?</p>
<p style="text-align: right;">Page 43</p> <p>1 I was just giving you my personal take on</p> <p>2 why some patients -- in some patients, it might</p> <p>3 be appropriate to do a surgery when they are</p> <p>4 younger than 18. So that's not something</p> <p>5 Eskenazi has any plans to do. I want that to be</p> <p>6 really clear.</p> <p>7 BY MR. FISHER</p> <p>8 Q Thank you for that. Then I do have a couple of</p> <p>9 follow-ups.</p> <p>10 I'm just wondering, why don't you think</p> <p>11 Eskenazi should do that?</p> <p>12 A I think because of the -- I don't -- because of</p> <p>13 the legal climate right now, I don't think it</p> <p>14 would be a good idea.</p> <p>15 Q The legal -- sorry --</p> <p>16 A No, the political climate. I don't think it</p> <p>17 would be a good idea for Eskenazi to do that.</p> <p>18 Q I see. Anything else?</p> <p>19 A Uh-uh.</p> <p>20 MR. FISHER: Thank you. Okay. Go ahead,</p> <p>21 Ken, or Kim.</p> <p>22 MS. METZGER: I'll save my questions for</p> <p>23 after, Ken.</p> <p>24 MR. FALK: Thank you.</p> <p>25</p>	<p style="text-align: right;">Page 45</p> <p>1 A Probably 20.</p> <p>2 Q And that includes doctors, nurses, nurse</p> <p>3 practitioners?</p> <p>4 A Yes.</p> <p>5 Q Licensed mental health professionals.</p> <p>6 A Yes.</p> <p>7 Q So about 20?</p> <p>8 A Yeah. We have a speech language pathologist,</p> <p>9 pharmacist, dietitian, occupational therapists;</p> <p>10 and then all of the other providers you</p> <p>11 mentioned. Social workers. It might be more</p> <p>12 than 20.</p> <p>13 Q Give me one moment here please. And in the</p> <p>14 attachment listing topics, it indicates one of</p> <p>15 the topics was information provided concerning</p> <p>16 Medicaid or medical insurance and I realize</p> <p>17 that's not your department.</p> <p>18 I just want to ask, do you have minor</p> <p>19 patients receiving hormones who are having those</p> <p>20 paid for by Medicaid?</p> <p>21 A I don't know.</p> <p>22 Q Okay. That's fair. And I'm not sure if this</p> <p>23 was before we went into the deposition or we</p> <p>24 were speaking beforehand. Just to confirm, the</p> <p>25 Plaintiff A.M. has never received services from</p>

<p style="text-align: right;">Page 46</p> <p>1 Eskenazi Gender Health Program; correct?</p> <p>2 A Correct.</p> <p>3 MR. FALK: I have no further questions.</p> <p>4 Thank you.</p> <p>5 MS. METZGER: No questions.</p> <p>6 MR. FISHER: Nothing to follow up.</p> <p>7 THE REPORTER: Will the witness read and</p> <p>8 sign the deposition transcript?</p> <p>9 MS. METZGER: Yes, we'll read and sign.</p> <p>10 THE REPORTER: On the record, who is</p> <p>11 ordering the transcript today?</p> <p>12 MS. METZGER: Kim Metzger for Eskenazi</p> <p>13 Health.</p> <p>14 MR. FALK: Ken Falk for the ACLU.</p> <p>15 MR. FISHER: Tom Fisher for the Attorney</p> <p>16 General's office.</p> <p>17 (Time noted: 1:52 p m.)</p> <p>18 AND FURTHER THE DEPONENT SAITH NOT.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 48</p> <p>1 relative or attorney of any party, or otherwise</p> <p>2 interested in the event of this action, and am not</p> <p>3 in the employ of the attorneys for any party.</p> <p>4 IN WITNESS WHEREOF, I have hereunto set my</p> <p>5 hand and affirmed my notarial seal on this,</p> <p>6 day of May 2 <i>Colleen Brady</i></p> <p>7</p> <p>8 <u>Colleen Brady</u></p> <p>9</p> <p>10</p> <p>11 Seal, Notary Public My Commission Expires:</p> <p>State of Indiana March 8, 2029</p> <p>12</p> <p>Colleen Brady County of Residence:</p> <p>13 Commission No. NP0732235 Monroe</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 47</p> <p>1 STATE OF INDIANA)</p> <p>) SS:</p> <p>2 COUNTY OF MONROE)</p> <p>3 I, Colleen Brady, a Notary Public in and for</p> <p>4 the County of Monroe, State of Indiana at large, do</p> <p>5 hereby certify that JANINE M. FOGEL, MD, the</p> <p>6 deponent herein, was by me first duly sworn to tell</p> <p>7 the truth, the whole truth, and nothing but the</p> <p>8 truth in the aforementioned matter;</p> <p>9 That the foregoing deposition was remotely</p> <p>10 taken on behalf of the Defendants, with the witness</p> <p>11 located in Indiana, on the 17th day of May 2023,</p> <p>12 commencing at the hour of 12:39 p m., pursuant to</p> <p>13 the Federal Rules of Civil Procedure;</p> <p>14 That said deposition was taken down</p> <p>15 stenographically and transcribed under my direction</p> <p>16 as accurately as possible, considering the quality</p> <p>17 of the videoconference communication, and that the</p> <p>18 typewritten transcript is a true record of the</p> <p>19 testimony given by the said deponent; and</p> <p>20 thereafter presented to said deponent for her</p> <p>21 signature;</p> <p>22 That the parties were represented by their</p> <p>23 counsel as aforementioned.</p> <p>24 I do further certify that I am a disinterested</p> <p>25 person in this cause of action; that I am not a</p>	<p style="text-align: right;">Page 49</p> <p>1 Veritext Legal Solutions</p> <p>2 1100 Superior Ave</p> <p>3 Suite 1820</p> <p>4 Cleveland, Ohio 44114</p> <p>5 Phone: 216-523-1313</p> <p>6 May 24, 2023</p> <p>7 To: Ms. Metzger</p> <p>8 Case Name: K.C., Et Al. v. The Individual Members Of The Medical</p> <p>9 Licensings Board Of Indiana</p> <p>10 Veritext Reference Number: 5915536</p> <p>11 Witness: Janine M. Fogel , MD Deposition Date: 5/17/2023</p> <p>12 Dear Sir/Madam:</p> <p>13 Enclosed please find a deposition transcript. Please have the witness</p> <p>14 review the transcript and note any changes or corrections on the</p> <p>15 included errata sheet, indicating the page, line number, change, and</p> <p>16 the reason for the change. Have the witness' signature notarized and</p> <p>17 forward the completed page(s) back to us at the Production address</p> <p>18 shown</p> <p>19 above, or email to production-midwest@veritext.com.</p> <p>20 If the errata is not returned within thirty days of your receipt of</p> <p>21 this letter, the reading and signing will be deemed waived.</p> <p>22 Sincerely,</p> <p>23 Production Department</p> <p>24</p> <p>25 NO NOTARY REQUIRED IN CA</p>

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<p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS</p> <p>2</p> <p>3 ASSIGNMENT REFERENCE NO: 5915536 CASE NAME: K C , Et Al v The Individual Members Of The Medical Licensings Board Of Indiana DATE OF DEPOSITION: 5/17/2023 4 WITNESS' NAME: Janine M Fogel , MD 5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me 7 I have made no changes to the testimony as transcribed by the court reporter 8</p> <p>9 Date Janine M Fogel , MD 10 Sworn to and subscribed before me, a Notary Public in and for the State and County, 11 the referenced witness did personally appear and acknowledge that: 12 13 They have read the transcript; They signed the foregoing Sworn Statement; and 14 Their execution of this Statement is of their free act and deed 15 16 I have affixed my name and official seal 17 this _____ day of _____, 20 ____ 18 _____ 19 Notary Public Commission Expiration Date 20 21 22 23 24 25</p>	<p>1 ERRATA SHEET VERITEXT LEGAL SOLUTIONS MIDWEST 2 ASSIGNMENT NO: 5915536 3 PAGE/LINE(S) / CHANGE /REASON 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____</p> <p>20 Date Janine M. Fogel , MD 21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ 22 DAY OF _____, 20____ . 23 _____ 24 Notary Public 25 _____ Commission Expiration Date</p>
<p>Page 51</p> <p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS</p> <p>2</p> <p>3 ASSIGNMENT REFERENCE NO: 5915536 CASE NAME: K C , Et Al v The Individual Members Of The Medical Licensings Board Of Indiana DATE OF DEPOSITION: 5/17/2023 4 WITNESS' NAME: Janine M Fogel , MD 5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me 7 I have listed my changes on the attached Errata Sheet, listing page and line numbers as 8 well as the reason(s) for the change(s) 9 I request that these changes be entered as part of the record of my testimony 10 11 I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my 12 testimony and be incorporated therein 13 14 Date Janine M Fogel , MD 15 Sworn to and subscribed before me, a Notary Public in and for the State and County, 16 the referenced witness did personally appear and acknowledge that: 17 They have read the transcript; They have listed all of their corrections 18 in the appended Errata Sheet; They signed the foregoing Sworn 19 Statement; and Their execution of this Statement is of 20 their free act and deed 21 I have affixed my name and official seal 22 this _____ day of _____, 20 ____ 23 _____ 24 Notary Public 25 _____ Commission Expiration Date</p>	

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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